

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL CASE NO. 3:22-cv-00135-MR**

TRACEY TERRELL GRADY,)	
)	
Plaintiff,)	
)	
vs.)	
)	
FNU BOITNOTT, et al.,)	<u>ORDER</u>
)	
Defendants.)	
)	

THIS MATTER is before the Court *sua sponte*.

The pro se incarcerated Plaintiff filed this action pursuant to 42 U.S.C. § 1983. [Doc. 1]. The Plaintiff moved to proceed in forma pauperis. [Doc. 2]. Upon receiving the Plaintiff's prisoner trust account statement, the Clerk entered an Order waiving the initial partial filing fee and directing the correctional facility to transmit partial payments pursuant to 28 U.S.C. § 1915(b)(2). [Doc. 8].

On July 5, 2022, the Court entered an Order exercising its discretion to revoke the Plaintiff's authorization to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a), based on the Plaintiff's extensive history of abusing, frivolous, malicious, and harassing litigation. [Doc. 9]. The Court granted the Plaintiff 14 days in which to pay the filing fee in full. The Plaintiff was

cautioned that, “[s]hould he fail to do so, this action will be dismissed without prejudice and without further notice.” [Id. at 6].

The Plaintiff appealed the July 5 Order [Doc. 10], and the Fourth Circuit affirmed. Grady v. Boitnot, 2022 WL 17819303 (4th Cir. Dec. 20, 2022); [see Doc. 15 (Mandate)].

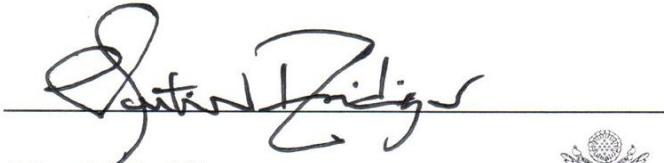
The Plaintiff has failed to pay the filing fee, and the time to do so has expired. The Plaintiff appears to have abandoned this action, and the Court is unable to proceed. This case will therefore be dismissed without prejudice. See Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.”); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the Clerk of Court is directed to terminate this action.

IT IS SO ORDERED.

Signed: April 16, 2023



Martin Reidinger
Chief United States District Judge 